

The House Committee on Transportation offers the following substitute to SB 526:

A BILL TO BE ENTITLED  
AN ACT

To amend Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, relating to the State Road and Tollway Authority, so as to authorize the authority to participate in the planning, development, acquisition, construction, equipping, financing, operation, management, and leasing of projects with combined public and private sector financing and investment structures; to authorize the authority to extend credit or make loans to any person, firm, corporation, limited liability company, or other type of entity participating in transportation public private partnership projects; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, relating to the State Road and Tollway Authority, is amended by revising paragraph (8) of Code Section 32-10-60, relating to certain definitions used in said article, as follows:

"(8) 'Self-liquidating' means that, in the judgment of the authority, the revenues and earnings to be derived by the authority from any project or combination of projects or from any other revenues available to the authority, together with any maintenance, repair, operational services, funds, rights of way, engineering services, and any other in-kind services to be received by the authority from:

(A) Appropriations ~~appropriations~~ of the General Assembly, the department, other state agencies or authorities, the United States government, or any county or municipality;

or

(B) Any person, firm, corporation, limited liability company, or other type of entity, shall be sufficient to provide for the maintenance, repair, and operation and to pay the principal and interest of revenue bonds which may be issued for the cost of such project, projects, or combination of projects."

**SECTION 2.**

Said article is further amended by revising paragraphs (5), (8), and (14) and enacting a new paragraph of Code Section 32-10-63, relating to the powers vested in the authority, as follows:

"(5) To make such contracts, leases, or conveyances as the legitimate and necessary purposes of this article shall require, including but not limited to contracts for construction or maintenance of projects, provided that the authority shall consider the possible economic, social, and environmental effects of each project, and the authority shall assure that possible adverse economic, social, and environmental effects relating to any proposed project have been fully considered in developing such project and that the final decision on the project is made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and the cost of eliminating or minimizing adverse economic, social, and environmental effects. Furthermore, in order to assure that adequate consideration is given to economic, social, and environmental effects of any ~~tollway~~ project under consideration, the authority shall:

(A) Follow the processes required for federal-aid highway projects, as determined by the National Environmental Policy Act of 1969, as amended, except that final approval of the adequacy of such consideration shall rest with the Governor, as provided in subparagraph (C) of this paragraph, acting as the chief executive of the state, upon recommendation of the commissioner, acting as chief administrative officer of the Department of Transportation;

(B) In the location and design of any project, avoid the taking of or disruption of existing public parkland or public recreation areas unless there are no prudent or feasible project location alternates. The determination of prudence and feasibility shall be the responsibility of the authority as part of the consideration of the overall public interest;

(C) Not approve and proceed with acquisition of rights of way and construction of a project until: (i) there has been held, or there has been offered an opportunity to hold, a public hearing or public hearings on such project in compliance with requirements of the Federal-aid Highway Act of 1970, as amended, except that neither acquisition of right of way nor construction shall be required to cease on any federal-aid project which has received federal approval pursuant to the National Environmental Policy Act of 1969, as amended, and is subsequently determined to be eligible for construction as an authority project utilizing, in whole or in part, a mix of federal funds and authority funds; and (ii) the adequacy of environmental considerations has been approved by the Governor, for which said approval of the environmental considerations may come in

the form of the Governor's acceptance of a federally approved environmental document;  
and

(D) Let by public competitive bid upon plans and specifications approved by the chief engineer or his or her successors all contracts for the construction of projects, except as may otherwise be provided for projects authorized under Code Sections 32-2-78 through 32-2-80;"

"(8)(A) To borrow money for any of its corporate purposes, to issue negotiable revenue bonds payable from revenues of such projects, and to provide for the payment of the same and for the rights of the holders thereof; and

(B) To extend credit or make loans to any person, firm, corporation, limited liability company, or other type of entity for the planning, design, construction, acquisition, financing, refinancing, operating, maintenance, or carrying out of any project, which credit or loans may be secured by loan agreements, deeds to secure debt, security agreements, contracts, and all other instruments, tolls, fees, or charges, upon such terms and conditions as the authority shall determine reasonable in connection with such loans, including provisions for the establishment and maintenance of reserves and insurance funds, and to require the inclusion in any contract, loan agreement, deed to secure debt, security agreement, or other instrument of such provisions for guaranty, insurance, construction, use, operation, maintenance, and financing of a project as the authority may deem necessary or desirable;"

"(14)(A) To pledge, mortgage, convey, assign, hypothecate, or otherwise encumber any property of the authority, including but not limited to real property, fixtures, personal property, intangible property, revenues, income, charges, fees, or other funds and to execute any lease, trust indenture, trust agreement, resolution, agreement for the sale of the authority's bonds, loan agreement, mortgage, deed to secure debt, trust deed, security agreement, assignment, or other agreement or instrument as may be necessary or desirable, in the judgment of the authority, to secure such bonds; and

(B) To acquire, accept, or retain equitable interests, security interests, or other interests in any property, real or personal, by deed to secure debt, assignment, security agreement, pledge, conveyance, contract, lien, loan agreement, or other consensual transfer, with any such instrument terminating when the bonds for the project are retired, in order to secure the repayment of any moneys loaned or credit extended by the authority;

(15) To incorporate one or more nonprofit corporations as subsidiary corporations of the authority for the purpose of carrying out any of the powers of the authority and to accomplish any of the purposes of the authority. Any such subsidiary corporation shall be a nonprofit corporation, a public body, a political subdivision of the state, and an

99 instrumentality of the state and shall exercise essential governmental functions. Any  
100 subsidiary corporations created pursuant to this power shall be created pursuant to  
101 Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and the Secretary of  
102 State shall be authorized to accept such filings. The members of the board of the  
103 authority shall constitute the members of and shall serve as directors of any subsidiary  
104 corporation and such service shall not constitute a conflict of interest. Upon dissolution  
105 of any subsidiary corporation of the authority, any assets shall revert to the authority or  
106 to any successor to the authority or, failing such succession, to the State of Georgia. The  
107 authority shall not be liable for the debts or obligations or bonds of any subsidiary  
108 corporation or for the actions or omissions to act of any subsidiary corporation unless the  
109 authority expressly so consents; and  
110 ~~(15)~~(16) To do all things necessary or convenient to carry out the powers expressly given  
111 in this article."

112 **SECTION 3.**

113 This Act shall become effective upon its approval by the Governor or upon its becoming law  
114 without such approval.

115 **SECTION 4.**

116 All laws and parts of laws in conflict with this Act are repealed.